

provide a valuable check on the market power of some large carriers that otherwise may dominate the market without any viable competition.

Sprint also believes that the Commission should make it clear that some BTA or MTA areas may be served for PCS purposes by multiple LECs or cellular carriers. These carriers may desire to provide PCS in their own service territories but not in those of the neighboring carriers. Under these circumstances, the LECs or cellular carriers should be allowed to jointly bid for the PCS license and to "split" the available spectrum between them for use in their own service areas. This was explicitly allowed in the cellular context where split markets were approved.

Split market arrangements would not be anticompetitive because several other PCS licenses would be available in the same area and at least one other cellular licensee would be serving the same area. Thus, there would not be a negative impact upon competition in the area. Indeed, competition might well be enhanced as one of the embedded carriers used the spectrum to create a customized product that is more marketable in the small geographic area where the spectrum might be split between two providers.

Joint bids for spectrum in MTAs by preference candidates may well assist these smaller businesses in gathering the financial resources necessary to participate in the PCS market. Many small

companies, whether they be "minority" preference holders or not, will be more likely to participate in PCS if they may make joint bids with other similar companies than if they must go it alone. In order to ensure that these companies have a real opportunity to participate in the PCS market, Sprint recommends that the Commission recognize that consortium of preference holders may well arise and that these consortia be explicitly condoned as appropriate preference holders.<sup>25</sup> As explained above, the effect of the preference may be adjusted depending on ownership percentage of preference holders. This concept should apply to all preference holder related tax certificates, installment payments and other exceptional treatment.

In order to avoid hidden principal problems with set-aside licensees, should set-asides be adopted, Sprint supports the prohibition of executory sales contracts between set-aside licensees and those not eligible as set-aside licensees during the first ten years after a license is issued. Any sale to a non set-aside holder based on such a contract should result in forfeiture of all profits on the sale of the license to the Commission as an additional license payment.

**VII. MICROWAVE LINKS AND UNSERVED CELLULAR AREAS  
COMPETITIVE BIDDING**

**A. Point-to-Point Microwave Common Carrier**

As a general principle competitive bidding should be required only on new commercial mobile services. Only when

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25. Id. at Para. 93.

point-to-point microwave is used to deliver service directly to end users should it be considered for competitive bidding. In addition, as the Commission has stated, competitive bidding should be required only where the license is exclusive.

It is unworkable and unreasonable to bid each leg of internal communication microwave circuits used for network point-to-point communication even when the user is a LEC, IXC or a mobile service provider.<sup>26</sup> Point-to-point microwave links are network components of telecommunications companies. Applications for these licenses are typically based on the companies' individual business plans. Thus, most applications are neither contested nor are there competing requests for routes. Thus, it is very likely there would be only one applicant on a given route. If another applicant were to appear, it is possible that applicant's intent might be to obtain a settlement from the legitimate applicant.

The Commission should not implement a false competitive bidding system where it is unlikely that multiple applicants will appear. Thus, in the case of point-to-point microwave licenses, competitive bidding should not be adopted.

Finally, Sprint believes that components of services should not be subject to competitive bidding. Point-to-point microwave is a component of a LEC, IXC or mobile service network.

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26. Id. at Para. 147 and 157.

It is consumed in the internal communications of the underlying carrier. Because it is a component of the total network provided, and is not directly accessible by the end user, Sprint believes that competitive bidding for the component is inappropriate.

**B. Unserved Cellular Areas**

Sprint does not support competitive bidding for unlicensed cellular areas.<sup>27</sup> This is not a new service where new spectrum has been allocated. Further, applications were accepted prior to July 26, 1993.<sup>28</sup> Sec. 6002(e)(2) of the Act allows exemptions from bidding when the licenses were filed for prior to July 26, 1993. Such is the case here. Under these circumstances, Sprint believes that only new services with applications filed after July 26, 1993 should be subject to competitive bidding. Thus, Sprint supports the lottery method, which was the announced method for licensing, when service applications were filed for these areas.

**VIII. CONCLUSION**

Sprint supports the development and deployment of PCS in a manner that will make the licenses realistically available to a wide variety of applicants and that will encourage rapid deployment. To assist in meeting these goals, Sprint opposes combinatorial bidding because it will have the actual effect of con-

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27. Id. at Para. 160.

28. Id.

centrating licenses and eliminating many potential licensees from being successful bidders. Set-asides should be rejected because of their potential illegality; however, reasonable preferences in bidding are appropriate. Finally, deposits, down payments, and installment payment plans should be reasonable and designed to free capital for deployment purposes rather than as onerous up-front spectrum payments.

Respectfully submitted,

SPRINT CORPORATION

By



Jay C. Keithley  
Leon M. Kestenbaum  
1850 M Street N.W.  
Suite 1100  
Washington, D.C. 20036  
(202) 857-1030

Kevin C. Gallagher  
8725 Higgins Rd.  
Chicago, IL 60631  
(312) 399-2348

W. Richard Morris  
P. O. Box 11315  
Kansas City, MO 64112  
(913) 624-3096

ITS ATTORNEYS

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**Estimated Cellular MTA Eligibility at 10% and 20% POP Coverage\***

	At 10%					
	<u>McCaw</u>	<u>GTE</u>	<u>PacTel</u>	<u>BellSouth</u>	<u>Bell Atlantic</u>	<u>SBMS</u>
Excluded	23	23	9	18	8	10
	<u>Ameritech</u>	<u>Sprint</u>	<u>TDS</u>	<u>NYNEX</u>	<u>US West</u>	
Excluded	7	16	20	3	11	
	At 20%					
	<u>McCaw</u>	<u>GTE</u>	<u>PacTel</u>	<u>BellSouth</u>	<u>Bell Atlantic</u>	<u>SBMS</u>
Excluded	22	20	9	13	8	9
	<u>Ameritech</u>	<u>Sprint</u>	<u>TDS</u>	<u>NYNEX</u>	<u>US West</u>	
Excluded	7	8	9	3	9	

\* This estimate is based on POPs in affected MSAs and RSAs that have not been adjusted to reflect BTA boundaries. Thus, this estimate may reflect a slight overexclusion in MTAs.

		<u>Difference (10%-20%)</u>				
<b>Additional MTAs Eligible</b>	<u>McCaw</u>	<u>GTE</u>	<u>PacTel</u>	<u>BellSouth</u>	<u>Bell Atlantic</u>	<u>SBMS</u>
	1	3	0	5	0	1
<b>Additional MTAs Eligible</b>	<u>Ameritech</u>	<u>Sprint</u>	<u>U.S. Cellular</u>	<u>NYNEX</u>	<u>US West</u>	
	0	8	11	0	2	
		<u>Percent MTAs Excluded at 10%</u>				
	<u>McCaw</u>	<u>GTE</u>	<u>PacTel</u>	<u>BellSouth</u>	<u>Bell Atlantic</u>	<u>SBMS</u>
	45	45	18	35	16	20
	<u>Ameritech</u>	<u>Sprint</u>	<u>U.S. Cellular</u>	<u>NYNEX</u>	<u>US West</u>	
	14	31	39	7	22	
		<u>Percent MTAs Excluded at 20%</u>				
	<u>McCaw</u>	<u>GTE</u>	<u>PacTel</u>	<u>BellSouth</u>	<u>Bell Atlantic</u>	<u>SBMS</u>
	43	39	18	25	16	18
	<u>Ameritech</u>	<u>Sprint</u>	<u>U.S. Cellular</u>	<u>NYNEX</u>	<u>US West</u>	
	14	16	18	7	18	

At 10%

	<u>Cellular Com</u>	<u>Vanguard</u>	<u>Comcast</u>	<u>AltTel</u>	<u>Century</u>	<u>Associated</u>
Excluded	4	2	1	8	5	2
		<u>Centennial</u>		<u>SNET</u>		
Excluded		2		1		

At 20%

	<u>Cellular Com</u>	<u>Vanguard</u>	<u>Comcast</u>	<u>AltTel</u>	<u>Century</u>	<u>Associated</u>
Excluded	4	1	1	4	2	0
		<u>Centennial</u>		<u>SNET</u>		
Excluded		1		0		



Difference (10%-20%)					
<u>Cellular Com</u>	<u>Vanguard</u>	<u>Comcast</u>	<u>AllTel</u>	<u>Century</u>	<u>Associated</u>
Additional MTAs Eligible	0	1	0	4	3
					0

<u>Centennial</u>					
<u>SNET</u>					
Additional MTAs Eligible	1		1		

Percent MTAs Excluded at 10%					
<u>Cellular Com</u>	<u>Vanguard</u>	<u>Comcast</u>	<u>AllTel</u>	<u>Century</u>	<u>Associated</u>
8	4	2	16	10	4


<u>Centennial</u>					
<u>SNET</u>					
4			2		

Percent MTAs Excluded at 20%					
<u>Cellular Com</u>	<u>Vanguard</u>	<u>Comcast</u>	<u>AllTel</u>	<u>Century</u>	<u>Associated</u>
8	2	2	8	4	4

<u>Centennial</u>					
<u>SNET</u>					
2			0		

### **CERTIFICATE OF SERVICE**

I, Melinda L. Mills, hereby certify that I have on this 10th day of November, 1993, sent via U.S. First Class Mail, postage prepaid, or Hand Delivery, a copy of the foregoing "Comments of Sprint Corporation" in the Matter of Implementation of Section 309(j) of the Communications Act Competitive Bidding, PP Docket No. 93-253 filed this date with the Acting Secretary, Federal Communications Commission, to the persons listed on the attached service list.

  
Melinda L. Mills

**Kathleen Levitz, Acting Chief\***  
Common Carrier Bureau  
Federal Communications Commission  
1919 M Street, NW, Room 500  
Washington, DC 20554

**Greg Vogt, Chief\***  
Tariff Division  
Federal Communications Commission  
1919 M Street, NW, Room 518  
Washington, DC 20554

**ITS\***  
1919 M Street, NW, Room 246  
Washington, DC 20554

**Joel Ader\***  
Bellcore  
2101 L Street, NW, 6th Floor  
Washington, DC 20037

**Rudy Baca\***  
Legal Advisor  
Office of Chairman Quello  
Federal Communications Commission  
1919 M Street, NW, Room 802  
Washington, DC 20554

**Byron Marchant\***  
Sr. Legal Advisor  
Office of Commissioner Barrett  
Federal Communications Commission  
1919 M Street, NW, Room 826  
Washington, DC 20554

**Linda Oliver\***  
Legal Advisor  
Office of Commissioner Duggan  
Federal Communications Commission  
1919 M Street, NW, Room 832  
Washington, DC 20554

**\* Indicates Hand Delivery**